

## Disabled Motorist Refueling Assistance at Delaware Retail Service Stations

To eliminate discrimination and ensure the civil rights of people with disabilities, the federal Americans with Disabilities Act (ADA) requires operators of retail service stations to make reasonable changes in policies, practices and procedures. In addition, to insure accessibility to all persons with disabilities, service stations must make structural changes to existing fuel pumps. If such structural changes are not readily achievable, then station operators must make such services available through alternative methods. The most readily achievable alternative to providing self-serve fuel is *to have attendants pump fuel for drivers with disabilities*.

The State of Delaware has enacted laws, rules and regulations that mirror the federal ADA. The Delaware Department of Transportation (DelDOT), Division of Motor Vehicles (DMV), Motor Fuel Tax Administration (MFTA), Office of Retail Gasoline Sales is responsible for the administration and enforcement of the Delaware Code chapter pertaining to the retail sales of motor fuels in the State of Delaware. The purpose of this brochure is to provide information to the general public, as well as retail station operators, regarding the provision of refueling service to disabled motorists at Delaware retail stations.

There are three provisions in Delaware Law designed to insure provision of refueling assistance to disabled motorists: assistance at stations that provide full- and self-service, self-service only stations, and calling devices at self-service stations.

### Full/Self Service Stations

The first Delaware Code provision (6 Del C, ch.29, §2912(a)) states the following:

(a) A retail establishment that offers gasoline or any other motor fuel for sale on both a full-service and self-service basis must provide refueling assistance during hours in which full-service is offered at the establishment, upon the request of a person with a disability who is operating a motor vehicle, provided that the person properly displays a special plate or parking permit for a person with a disability or a person 85 or older, as described in § 2134 or § 2135 of Title 21, and provided that the person to whom the permit has been issued is the operator of the vehicle. Refueling assistance must be provided without a charge beyond the self-service price, regardless of whether the refueling assistance is provided at the self-service or the full-service pump. An employee providing refueling assistance has the right to request proof that the operator of the vehicle is the owner of the vehicle to whom the special plate or parking permit has been issued.

### Self Service Stations and Calling Devices

The second and third provisions (6 Del C, ch. 29, §2912(b) & §2912(c)) state the following:

(b) A retail establishment that offers gasoline for sale only on a self-serve basis must provide at least 1 refueling site with a calling device which allows a person with a disability or a person 85 or older to whom a special license plate or parking permit has been issued pursuant to § 2134 or § 2135 of Title 21 to signal an employee that refueling assistance is needed. A retail establishment that offers gasoline or any other motor fuel for sale only on a self-serve basis must provide refueling assistance without a charge beyond the self-service price. However, a retail establishment is not required to provide refueling assistance during those times that the establishment is being operated on a remote control basis by only 1 employee, or if someone able to provide refueling assistance is in the vehicle.

(c) A "calling device" under subsection (b) of this section must meet the following minimum specifications:

- (1) Must provide a recognizable signal inside the retail establishment that a driver needs refueling assistance;

- (2) Must be able to be operated from the vehicle using only 1 hand;
- (3) Must have at least 1 sign next to it which identifies the device and specifies the hours when refueling assistance is available;
- (4) Must be able to be operated from the vehicle in accordance with all requirements of the Americans with Disabilities Act Accessibility Guidelines.

Penalties will be assessed for failure to comply with this statute. Specifically, 6 Del C., ch. 29, §2912(d) states the following: "Failure to comply with the provisions of this section will subject the owner of a retail establishment that offers gasoline or any other motor fuel for sale to a civil penalty of not less than \$300 nor more than \$600."

#### Key Points Regarding Disabled Motorist Assistance at Retail Service Stations

- Provision of assistance is not voluntary – it is required by law.
- A motorist cannot be asked to verify their disability. Many disabilities are not visible; some are respiratory related (and affected by fumes from fuel), mental impairments, and so on.
- A motorist must have a special parking ID placard (posted on their rear-view mirror, or on the dash) or a special license plate that designates a disability. This includes out-of-state motorists.
- Attendants are not required to perform additional services, such as cleaning windshields or checking oil.
- An attendant at a self-serve only station is not required to provide service if that attendant is the only person on duty, and is not required to provide pump service for motorists with a disability if someone able to provide pump service is also in the vehicle.
- Pump service must be provided at the self-service rate - no additional fees can be charged for this service.
- Existing retail station owners with only one self-service station in Delaware must install a calling device by October 4, 2008.
- Existing retail station owners with more than one self-service station in Delaware must install a calling device in 50% of their stations by October 4, 2008, and in the remainder by October 4, 2010.
- A self-service retail station that opens for business in Delaware after October 4, 2007 must install a calling device prior to opening for business.

#### Important Contact Information

- If there are any questions or issues regarding these requirements, please contact the Delaware Motor Fuel Tax Administration, Office of Retail Gasoline Sales, Post Office Drawer E, Dover, Delaware 19903-1565, or call (302)744-2715.
- If there are questions or issues concerning the federal ADA, please call the Department of Justice's ADA Information Line at (800) 514-0301 (voice) or (800) 514-0383 (TDD) or access the ADA Home Page ([www.usdoj.gov/crt/ada/adahom1.htm](http://www.usdoj.gov/crt/ada/adahom1.htm)).
- For information regarding special parking ID placards or special license plates (HPxxxx) for persons with disabilities, please contact one of the four Delaware Division of Motor Vehicles facilities:
  - New Castle (302-326-5000)
  - Greater Wilmington (302-434-3200)
  - Dover (302-744-2500)
  - Georgetown (302-853-1000)

Applications for ID placards or special license plates for persons with disabilities can be obtained at any of the above DMV facilities (please call or visit the DMV website, [www.dmv.de.gov](http://www.dmv.de.gov), "Office Locations and Contact Info" link, for address and directions). Applications can also be obtained directly from the DMV website ([www.dmv.de.gov](http://www.dmv.de.gov), "Vehicle Services" link).